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ROBERT S. WEST
RETIRED

OUR FILE NUMBER

October 25, 1989

RECEIVED

OCT 26 1989

Certified Mail - Return Receipt Requested

California Coastal Commission
P.O. Box 1450
Long Beach, CA 90801-1450

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Attn: Pam Emerson

Re: Black Tor Corporation
Application Nos.: 5-89-161; 5-89-287
File Number: V-5-Mal-89-015 (Black Tor)
Black Tor Corporation v. California Coastal
Commission
LASC No.: C 729 877

Dear Gentlepersons:

Some months ago we met with representatives of the Coastal Commission and the California Attorney General in an attempt to arrive at a settlement of disputes involving the referenced applications and the referenced litigation.

As a result of those meetings we believe and we think the Coastal Commission staff believe that the disputes could be settled if Black Tor Corporation would pay for improvement of the beach access (the "Chiatt-Wildman Access") leading from Pacific Coast Highway to the beach adjacent to the property owned by K. Chiatt ("Chiatt") within the property owned by Donahue L. Wildman ("Wildman") in Malibu, California.

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After those conversations with the Coastal Commission staff we then spoke with Marsha Grimm, an attorney with the California Coastal Conservancy owner of the Chiatt-Wildman Access. We told Ms. Grimm of our conversation with the Coastal Commission staff, of the desire to pay for improvement of that access and sought arrangements from her to commence that process. She told us that it would be necessary for her to discuss the matter with the Coastal Conservancy staff.

Shortly thereafter I was visited by Jonathan S. Horne ("Horne"), attorney for Wildman. Horne advised me that Wildman did not wish the access improved and would fight to prevent such improvement. However, Horne also told me that Chiatt and Wildman would assist in defraying the costs of providing access elsewhere in lieu of the Chiatt-Wildman access. I then advised Ms. Grimm of my conversation with Horne and asked her to determine whether or not, in view of Wildman's attitude, the Coastal Conservancy would enforce its access.

Thereafter, Ms. Grimm and other representatives of the Coastal Conservancy met with representatives of the Coastal Commission and Horne at the Chiatt-Wildman access. Apparently, it was determined thereat that the Chiatt-Wildman access would be very difficult to improve and that it was not a physically viable access in any event. A suggestion was made that perhaps Wildman would consent to the removal of the Chiatt-Wildman access from the west side of his property to the east side of his property - it being the thought that then Black Tor Corporation could pay for the improvement of that access and everyone would live happily ever after. No such luck.

Wildman, when asked if he would consent to such change in access, said emphatically no by the letter which is enclosed herewith dated September 26, 1989.

Meanwhile, I had spoken with Ms. Grimm once again and was informed that the Coastal Conservancy would not enforce its access on the westerly side of Wildman's property. By then I had been informed by a member of the

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Coastal Commission staff that access might be obtained through Paradise Cove which, if improved, could serve the same purpose as an improved Chiatt-Wildman access.

Armed with that information, I inquired of the owners of Paradise Cove as to whether or not access could be purchased from them and improved. The attorney for the owners of Paradise Cove, Philip Magaram, advised me that the owners of Paradise Cove were not interested in selling any access at this time.

Because the Coastal Conservancy will not enforce the Chiatt-Wildman Access, because the Chiatt-Wildman Access is not a physically viable access, because Wildman has indicated he will resist any attempt to enforce the Chiatt-Wildman Access, because Wildman will not voluntarily move access to the eastern portion of his property, because Paradise Cove owners will not sell access through their property and because no other access appears to be available at the desired location, one must conclude that there is no access available for Black Tor Corporation to improve in order to settle the above referenced disputes and litigation.

We have been informed by Peter Ireland, an Administrative Assistant to Dean Dana, Los Angeles County Supervisor, that Los Angeles County owns land which is a view sight above Broad Beach from which there is access to Broad Beach. He indicated that the County might be interested in private parties improving that access so that the public could make better use of it and of the view sight. Black Tor Corporation is willing to investigate such, if its improvement of that access would suffice to settle the above disputes and litigation.

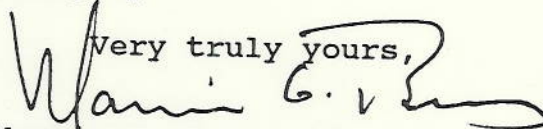
Please advise us whether or not the Coastal Commission would be interested in settling the above disputes by improvement of the County owned view sight and beach access above Broad Beach. If so, we will investigate and attempt to enter into agreements to resolve these matters in that manner. If the Coastal Commission is not

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interested in such a settlement, then we welcome any other suggestions that you might have for settling and resolving these disputes and litigation.

Please respond promptly.

Very truly yours,



Marvin G. Burns of
DE CASTRO, WEST, CHODOROW & BURNS, INC.

MGB/ba
Enclosure

cc: Mr. Blake Edwards
cc: Sol Rosenthal, Esq.
cc: Mr. Paul Glass
cc: Mr. John Wallis
cc: Steven H. Kaufmann, Deputy Attorney General



Health & Tennis Corporation of America

One Century Plaza • Suite - 2810 • 2029 Century Park East • Los Angeles, California 90067 • Phone 213/552-6941

September 26, 1989

Mr. Jonathan S. Horne, Esq.
309 Santa Monica Boulevard
Suite 306
Santa Monica, California 90401

RE: DONAHUE WILDMAN RESIDENCE

Dear Mr. Horne:

At your suggestion I have carefully considered a proposal to voluntarily relocate the vertical access easement from its present location across a portion of my property to a new location along my eastern property line and down through the ravine to the ocean. This proposal is neither feasible nor desireable for at least the following reasons:

1. My personal residence is located less than ten feet from my easterly property line for a significant distance. It is bad enough that the existing easement is located within thirty feet of my front door. It would be absolutely unacceptable to have a public easement located directly adjacent to my living quarters.
2. The ravine is not located entirely within the boundary lines of my property. The bed of the ravine traverses between my property and my neighbors' at several locations. I am certain that my neighbors to the east will not agree to creating a public easement over any portion of their property. To construct an easement within the boundaries of my property would require extraordinary engineering techniques which could destabilize and scar my property. It would also create a pedestrian easement which followed highly irregular contours which would be extremely difficult to walk.

Mr. Jonathan S. Horne, Esq.
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3. At least seventy feet along the easterly boundary of my property is designated as a Flood Hazard area because it is a natural watercourse. In addition, a culvert is located at the head of the ravine which diverts storm runoff from Pacific Coast Highway down through the ravine to the ocean. I know from personal experience that the combined effects of these two water sources periodically result in a torrent of water flooding through the ravine with terrific force. This would pose a serious danger to any person having the misfortune of being trapped in this steep ravine during a rainstorm and would also undoubtedly destroy the expensive improvements necessary to permit pedestrian access.
4. The ravine is located in part in an area which the Coastal Commission found to be the wintering habitat of the Monarch Butterfly. It would seem that developing a pedestrian easement through this area would disrupt this sensitive and pristine habitat area.

In conclusion, I unequivocally oppose the proposal to relocate the existing easement on my property. I am absolutely willing to cooperate with the Coastal Commission and/or the California Coastal Conservancy to promote public access to the beach at a more appropriate location.

Sincerely,



Donahue L. Wildman

